

AMENDED IN ASSEMBLY JUNE 20, 2005

AMENDED IN SENATE MAY 11, 2005

**SENATE BILL**

**No. 127**

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**Introduced by Senator Chesbro**  
*(Principal coauthor: Assembly Member Evans)*

January 31, 2005

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An act to amend Section 23396.2 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 127, as amended, Chesbro. Alcoholic beverages: licenses.

The Alcoholic Beverage Control Act imposes upon the Department of Alcoholic Beverage Control the responsibility to administer and enforce state laws with respect to alcoholic beverages, including the implementation of alcoholic beverage licensing. Among other things, the act provides for the issuance of an on-sale license for a wine, food and art cultural museum, and educational center that authorizes described persons to sell, furnish, or give alcoholic beverages for consumption on the premises and for various off-sale privileges, but limits the off-sale privileges to the sale of no more than 6,000 cases per calendar year of wine labeled, as provided.

This bill would delete that limitation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 23396.2 of the Business and Professions Code is amended to read:

23396.2. (a) An on-sale general license for a wine, food and art cultural museum, and educational center authorizes those persons described in subdivision (b) to sell, furnish, or give alcoholic beverages for consumption on the premises and off-sale privileges, as further qualified herein.

(b) For purposes of this division, “a wine, food and art cultural museum, and educational center” is a person which meets all the following conditions:

(1) The retail premises ~~includes~~ *shall include* an auditorium, concert terrace, exhibition gallery, teaching kitchen, and library and may be adjacent to a bona fide eating place as defined in Section 23038.

(2) The premises is located in Napa County, operated by a nonprofit entity that is exempt from payment of income taxes under Section 501(c)(3) of the Internal Revenue Code, and includes real estate improvements of a value of at least forty-five million dollars (\$45,000,000).

(c) The department shall upon request and qualification issue an on-sale general wine, food and art cultural museum, and educational center licensee a duplicate of the original license for a premises located on commonly owned property contiguous to, or in close proximity to the original licensed premises. As used in this section, “close proximity” shall mean the original licensed premises is no further than 900 feet from the premises issued the duplicate license regardless of whether the two premises are separated by a public or private street, alley, or sidewalk.

(d) There shall be no limit as to the number of events held on an on-sale general wine, food and art cultural museum, and educational center premises or duplicate premises at which a person or persons issued caterer’s permits under Section 23399 may sell alcoholic beverages so long as the on-sale general license for a wine, food and art cultural museum, and educational center surrenders its license privileges for any portion of the premises at which a catered event is held for the duration of the event.

1 (e) A wine, food and art cultural museum, and educational  
2 center licensed under this section shall not be included in the  
3 definition of “public premises” under Section 23039.

4 (f) The provisions of Article 2 (commencing with Section  
5 23815) of Chapter 5 do not apply to the issuance of on-sale  
6 general licenses for a wine, food and art cultural museum, and  
7 educational center. An on-sale wine, food and art cultural  
8 museum, and educational center license may be transferred to  
9 another person, qualified pursuant to subdivision (b), but not to  
10 another location. A licensee specified in this section shall  
11 purchase no alcoholic beverages for sale in this state other than  
12 from a wholesaler or winegrower licensee. Notwithstanding any  
13 other provision of this division, licensees may donate wine to a  
14 person licensed under this section.

15 (g) Notwithstanding any other provision of this division, a  
16 manufacturer, winegrower, manufacturer’s agent, California  
17 winegrower’s agent, rectifier, distiller, bottler, importer, or  
18 wholesaler may hold the ownership of any interest, directly or  
19 indirectly, in the premises and in the license of a wine, food and  
20 art cultural museum, and educational center, may serve as an  
21 officer, director, employee, or agent of a wine, food and art  
22 cultural museum, and educational center licensee, and may  
23 sponsor or fund educational programs, special fundraising and  
24 promotional events, improvements in capital projects, and the  
25 development of exhibits or facilities of and for a wine, food and  
26 art cultural museum, and educational center licensee provided the  
27 number of items of beer, wine, or distilled spirits by brand,  
28 exclusive of wine labeled for the wine, food and art cultural  
29 museum, and educational center licensee authorized in  
30 subdivision (a) of this section, offered for sale by the wine, food  
31 and art cultural museum, and educational center licensee, which  
32 are produced, bottled, rectified, distilled, processed, imported, or  
33 sold by an individual licensee holding an interest in, serving as  
34 an officer, director, employee or agent of, or sponsoring or  
35 funding the programs and projects of the retail licensee, does not  
36 exceed 15 percent of the total items of beer, wine, or distilled  
37 spirits by brand listed and offered for sale in the retail licensed  
38 premises.

39 (h) An applicant for an original on-sale general license for a  
40 wine, food and art cultural museum, and educational center shall,

1 at the time of filing the application for the license, accompany  
2 the application with a fee of twelve thousand dollars (\$12,000).  
3 The annual renewal fee for a license issued pursuant to this  
4 section shall be the same as the applicable renewal fee for an  
5 on-sale general license.

6 (i) An applicant for a duplicate on-sale general license for a  
7 wine, food and art cultural museum, and educational center shall,  
8 at the time of filing the application for the license, accompany  
9 the application with a fee equal to the license fee for an on-sale  
10 general license. The annual renewal fee for a duplicate license  
11 issued pursuant to this section shall be the same as the applicable  
12 renewal fee for an on-sale general license.

13 SEC. 2. This act is an urgency statute necessary for the  
14 immediate preservation of the public peace, health, or safety  
15 within the meaning of Article IV of the Constitution and shall go  
16 into immediate effect. The facts constituting the necessity are:

17 In order to ensure that equal treatment is accorded to similarly  
18 situated entities at the earliest possible time, it is necessary that  
19 this act take effect immediately.